

EXHIBIT B

LAW OFFICES OF DALE K. GALIPO
Dale K. Galipo (Bar No. 144074)
dalekgalipo@yahoo.com
Eric Valenzuela (Bar No. 284500)
evalenzuela@galipolaw.com
21800 Burbank Boulevard, Suite 310
Woodland Hills, California 91367
Telephone: (818) 347-3333
Facsimile: (818) 347-4118

UNITED STATES DISTRICT COURT

DISTRICT COURT FOR THE DISTRICT OF NEVADA (LAS VEGAS)

JEANNE LLERA and JORGE L.
GOMEZ, as the appointed co-special
administrators of the estate of JORGE A.
GOMEZ; JEANNE LLERA; and JORGE
L. GOMEZ,

Plaintiffs,

vs.

LAS VEGAS METROPOLITAN
POLICE DEPARTMENT; RYAN
FRYMAN; DAN EMERTON;
VERNON FERGUSON; ANDREW
LOCHER; JOHN SQUEO; and DOES 2-
10, inclusive,

Defendants.

Case No. 2:20-cv-01589-RFB-BNW

**[PROPOSED] FIRST COMPLAINT
FOR DAMAGES**

1. Violation of Free Speech- Right to Peaceful Protest (42 U.S.C. § 1983)
2. Unreasonable Search and Seizure— Excessive Force (42 U.S.C. § 1983)
3. Unreasonable Search and Seizure— Denial of Medical Care (42 U.S.C. § 1983)
4. Substantive Due Process—(42 U.S.C. § 1983)
5. Municipal Liability for Unconstitutional Custom, Practice, or Policy (42 U.S.C. § 1983)
6. Municipal Liability— Failure to Train (42 U.S.C. § 1983)
7. Municipal Liability— Ratification (42 U.S.C. § 1983)
8. Battery (Wrongful Death/Survival)
9. Negligence (Wrongful Death/Survival)

DEMAND FOR JURY TRIAL

1 **FIRST AMENDED COMPLAINT FOR DAMAGES**

2 Plaintiffs JEANNE LLERA and JORGE L. GOMEZ, as the appointed co-
3 special administrators of the estate of JORGE A. GOMEZ, JEANNE LLERA and
4 JORGE L. GOMEZ, for their Complaint against Defendants LAS VEGAS
5 METROPOLITAN POLICE DEPARTMENT, RYAN FRYMAN, DAN
6 EMERTON, VERNON FERGUSON, ANDREW LOCHER, JOHN SQUEO and
7 DOES 2-10, inclusive, allege as follows:

8 **INTRODUCTION**

9 1. This civil rights action seeks compensatory and punitive damages from
10 Defendants for violating various rights under the United States Constitution and
11 state law in connection with the fatal police shooting of the decedent, Jorge A.
12 Gomez.

13 **PARTIES**

14 2. At all relevant times, JORGE A. GOMEZ (“DECEDENT”) was an
15 individual residing in Clark County, Nevada.

16 3. Plaintiffs JEANNE LLERA and JORGE L. GOMEZ are the court-
17 appointed co-special administrators of the estate of DECEDENT. Plaintiffs
18 JEANNE LLERA and JORGE L. GOMEZ sue in their representative capacities as
19 the appointed co-special administrators of the estate of DECEDENT and seek
20 survival damages under both federal and state law.

21 4. Plaintiff JEANNE LLERA is an individual residing in the County of
22 Osceola, Florida, and is the mother of DECEDENT. JEANNE LLERA sues in her
23 individual capacity as the mother of DECEDENT. JEANNE LLERA seeks
24 wrongful death damages under both federal and state law.

25 5. Plaintiff JORGE L. GOMEZ is an individual residing in the County of
26 Clark, Nevada, and is the father of DECEDENT. JORGE L. GOMEZ sues in his
27 individual capacity as the father of DECEDENT. JORGE L. GOMEZ seeks
28 wrongful death damages under federal and state law.

1 6. At all times herein mentioned, Defendant, LAS VEGAS
2 METROPOLITAN POLICE DEPARTMENT (hereinafter “LVMPD”) is and was at
3 all relevant times mentioned herein, a political subdivision of Clark County, a
4 municipality duly organized and existing under the laws of the State of Nevada.

5 7. Defendant RYAN FRYMAN is an individual, and a LVMPD Police
6 Officer.

7 8. Defendant DAN EMERTON is an individual, and a LVMPD Police
8 Officer.

9 9. Defendant VERNON FERGUSON is an individual, and a LVMPD
10 Police Officer.

11 10. Defendant ANDREW LOCHER is an individual, and a LVMPD Police
12 Officer.

13 11. Defendant JOHN SQUEO is an individual, and a LVMPD Police
14 Officer.

15 12. At all relevant times, LVMPD was the employer of Defendants RYAN
16 FRYMAN, DAN EMERTON, VERNON FERGUSON, ANDREW LOCHER and
17 JOHN SQUEO who were LVMPD police officers. At all relevant times DOES 2
18 through 5 (“DOE OFFICERS”) were members of law enforcement, including, but
19 not limited to, LVMPD police officers. At all relevant times, DOES 6 through 10
20 (“DOE SUPERVISORS”) who were managerial, supervisory, and policymaking
21 employees of LVMPD. Officers FRYMAN, EMERTON, FERGUSON, LOCHER,
22 SQUEO and DOE OFFICERS are sued in their individual capacity for damages
23 only.

24 13. The true names and capacities of Defendants DOES 2 through 10,
25 inclusive, are unknown to Plaintiffs who therefore sue these Defendants by such
26 fictitious names. Plaintiffs will seek leave to amend this complaint to show the true
27 names and capacities of these Defendants when they have been ascertained. Each of
28

1 the fictitiously named defendants is responsible in some manner for the conduct or
2 liabilities alleged herein.

3 14. At all times herein Officers RYAN FRYMAN, DAN EMERTON,
4 VERNON FERGUSON, ANDREW LOCHER, JOHN SQUEO, some of the DOE
5 OFFICERS and all DOE SUPERVISORS were duly authorized employees and
6 agents of the LVMPD who were acting under color of law, within the course and
7 scope of their respective duties as police officers and with the complete authority
8 and ratification of their principal, Defendant LVMPD.

9 15. At all times herein, each and every Defendant was the agent of each
10 and every other defendant and had the legal duty to oversee and supervise the hiring,
11 conduct, employment, and discipline of each and every Defendant herein.

12 16. In doing the acts and in failing or omitting to act as hereafter described,
13 Officers FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO, some of the
14 DOE OFFICERS and all the DOE SUPERVISORS were acting with the implied
15 and actual permission and consent of Defendant LVMPD.

16 17. At all times herein mentioned all defendants, named and unnamed,
17 were and are duly appointed officers, agents, and/or employees of Defendant
18 LVMPD or of another local law enforcement agency.

19 18. At all times herein, each and every defendant was the agent of each and
20 every other Defendant and had the legal duty to oversee and supervise the hiring,
21 conduct, employment, and discipline of each and every defendant named and
22 unnamed in this complaint.

23 19. In doing the acts and in failing or omitting to act as hereafter described,
24 Defendants were acting with the implied and actual permission and consent of
25 Defendant LVMPD. The involved officers were acting under the color of law and
26 under the course and scope of their employment with the LVMPD and/or of another
27 local law enforcement agency.

28

1 27. On June 1, 2020, DECEDENT had encountered several members of
2 law enforcement, including LVMPD officers, while peacefully protesting at the
3 BLM demonstration (just as had occurred during the prior protests he attended).
4 DECEDENT walked by several police officers while at the protest on Las Vegas
5 Blvd., and even waved at some of the police officers as he passed by them. Despite
6 encountering several members of law enforcement while protesting, DECEDENT
7 was never even approached by any of these officers because he was not in violation
8 of any law by attending the BLM protest with his guns on him.

9 28. At approximately 11:00 p.m., members of law enforcement began an
10 operation to disperse the BLM protestors, including DECEDENT, despite the
11 protestors engaging in a peaceful demonstration and exercising their constitutionally
12 protected right to peaceful protest/freedom of assembly under the First Amendment.

13 29. In compliance with the order to disperse from law enforcement,
14 DECEDENT left the BLM protest and began to walk towards his parked vehicle so
15 he could leave the area. DECEDENT's vehicle was parked on the street near the
16 area of the Lloyd D. George Federal Courthouse in Downtown Las Vegas.

17 30. On information and belief, while walking back towards his parked
18 vehicle so he could leave the area, members of law enforcement near the
19 courthouse, including, JOHN SQUEO, a member of LVMPD, began to fire several
20 less than lethal rounds at DECEDENT, striking him multiple times, causing him
21 severe pain and suffering.

22 31. The JOHN SQUEO did not give a verbal warning prior to firing less
23 than lethal rounds at DECEDENT, despite being feasible to do so.

24 32. On information and belief, law enforcement, including, but not limited
25 to, JOHN SQUEO, discharged and struck DECEDENT with the less than lethal
26 rounds that he was firing at him.

1 33. In response to the less than lethal rounds being fired at and striking
2 DECEDENT, he began to run away in the opposite direction from where JOHN
3 SQUEO was positioned, who was shooting him.

4 34. DECEDENT did not charge at or run in the direction of JOHN
5 SQUEO, who was firing and striking him with the less then lethal rounds. Further,
6 DECEDENT never verbally threatened JOHN SQUEO, he never pointed a gun at
7 anyone, including the involved officers, and he never fired his weapon at any point
8 during the incident, nor did he attempt to do so.

9 35. While DECEDENT was running away from JOHN SQUEO near the
10 Courthouse, who was shooting him with less than lethal rounds, Officers
11 FRYMAN, EMERTON, FERGUSON and LOCHER discharged their firearms at
12 DECEDENT, striking him several times, causing DECEDENT serious physical
13 injury and eventually killing him.

14 36. Officers FRYMAN, EMERTON, FERGUSON and LOCHER fired a
15 total of nineteen (19) shots at DECEDENT, including shots as DECEDENT was
16 going to the ground and after he had already went down to the ground.

17 37. Officers FRYMAN, EMERTON, FERGUSON and LOCHER did not
18 give DECEDENT a verbal warning that deadly force would be used prior to the
19 shooting, despite being feasible to do so. Further, DECEDENT was not wanted for
20 any crime and there was no information that DECEDENT had physically injured
21 anyone.

22 38. DECEDENT did not charge at Officers FRYMAN, EMERTON,
23 FERGUSON and LOCHER. Instead, DECEDENT was running away in the
24 opposite direction of JOHN SQUEO who was shooting him with less than lethal
25 rounds. Further, DECEDENT never verbally threatened anyone, including the
26 involved officers, he never pointed a gun at anyone, including at the involved
27 officers, and he never fired his weapon at any point during the incident, nor did he
28 attempt to do so.

39. Officers FRYMAN, EMERTON, FERGUSON and LOCHER may have simply overreacted when they heard the less than lethal rounds being fired at DECEDENT and saw DECEDENT running with his guns on his person. Prior to, and during the shooting, DECEDENT had not committed any serious crime and Officers FRYMAN, EMERTON, FERGUSON and LOCHER had no information that DECEDENT had committed a serious crime.

40. On information and belief, FRYMAN, EMERTON, FERGUSON and LOCHER were members of LVMPD's Development Bureau, range training staff, so they would not normally work patrol in the field. This may have also contributed to them overreacting and using excessive and unreasonable deadly force against DECEDENT.

FIRST CLAIM FOR RELIEF

Violation of Free Speech- Right to Peaceful Protest (42 U.S.C. § 1983)
(Against Defendants FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5)

41. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 40 of this Complaint with the same force and effect as if fully set forth herein.

42. Defendants FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5 caused DECEDENT to be deprived of his rights under the First Amendment to the Constitution when they shot DECEDENT with both nonlethal rounds and lethal rounds after he had just been peacefully protesting at a BLM demonstration, then began to walk to his parked vehicle so he could leave the area in compliance with a law enforcement order to disburse which had recently been issued to the protestors.

43. Under the First Amendment, a citizen has the right to peacefully protest and the right to freedom of assembly.

1 44. While DECEDENT was peacefully protesting at the BLM
2 demonstration, DECEDENT was engaged in a constitutionally protected activity.
3 Defendants FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES
4 2-5's actions against DECEDENT, including, but not limited to, shooting him
5 several times with both nonlethal and lethal rounds, would chill a person of ordinary
6 firmness from continuing to engage in this protected activity.

7 45. DECEDENT's constitutionally protected activity of peacefully
8 protesting was a substantial or motivating factor in Defendants FRYMAN,
9 EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5's conduct.

10 46. Defendants FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO
11 and DOES 2-5 were acting under color of state law when they shot DECEDENT
12 with both nonlethal and lethal rounds, and thus violated DECEDENT's First
13 Amendment rights.

14 47. As a direct and proximate cause of the acts of FRYMAN, EMERTON,
15 FERGUSON, LOCHER, SQUEO and DOES 2-5, DECEDENT experienced severe
16 pain and suffering and lost his life and earning capacity. Plaintiffs are also claiming
17 funeral and burial expenses under this claim.

18 48. As a result of the conduct of FRYMAN, EMERTON, FERGUSON,
19 LOCHER, SQUEO and DOES 2-5, they are liable for DECEDENT'S injuries,
20 either because they were integral participants in the violation of his freedom of
21 speech rights under the First Amendment, or because they failed to intervene to
22 prevent these violations.

23 49. The conduct of FRYMAN, EMERTON, FERGUSON, LOCHER,
24 SQUEO and DOES 2-5 was willful, wanton, malicious, and done with reckless
25 disregard for the rights and safety of DECEDENT and therefore warrants the
26 imposition of exemplary and punitive damages as to FRYMAN, EMERTON,
27 FERGUSON, LOCHER, SQUEO and DOES 2-5.

28

1 50. Plaintiffs JEANNE LLERA and JORGE L. GOMEZ, bring this claim
2 as the appointed co-special administrators of the estate of DECEDENT JORGE A.
3 GOMEZ and seek survival damages for the violation of DECEDENT's rights.

4 51. Plaintiffs also seek attorney fees under this claim.

5 **SECOND CLAIM FOR RELIEF**

6 **Unreasonable Search and Seizure—Excessive Force (42 U.S.C. § 1983)**

7 (Against Defendants FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and
8 DOES 2-5)

9 52. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
10 through 51 of this Complaint with the same force and effect as if fully set forth
11 herein.

12 53. Defendants FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO
13 and DOES 2-5's unjustified shooting (both nonlethal and lethal rounds) deprived
14 DECEDENT of his right to be secure in his persons against unreasonable searches
15 and seizures as guaranteed to DECEDENT under the Fourth Amendment to the
16 United States Constitution and applied to state actors by the Fourteenth Amendment.

17 54. The unreasonable use of force by Defendants FRYMAN, EMERTON,
18 FERGUSON, LOCHER, SQUEO and DOES 2-5 deprived the DECEDENT of his
19 right to be secure in his person against unreasonable searches and seizures as
20 guaranteed to DECEDENT under the Fourth Amendment to the United States
21 Constitution and applied to state actors by the Fourteenth Amendment.

22 55. As a result, DECEDENT suffered extreme mental and physical pain
23 and suffering, loss of enjoyment of life and eventually suffered a loss of life and of
24 earning capacity. Plaintiffs are also claiming funeral and burial expenses under this
25 claim.

26 56. As a result of the conduct of Defendants FRYMAN, EMERTON,
27 FERGUSON, LOCHER, SQUEO and DOES 2-5, they are liable for DECEDENT's
28

1 injuries, either because they were integral participants in the excessive force, or
2 because they failed to intervene to prevent these violations.

3 57. This use of force, both deadly and non-deadly force, was excessive and
4 unreasonable under the circumstances, especially since DECEDENT had been
5 peacefully protesting and then complied with law enforcement's disbursement order
6 by walking back to his parked vehicle so he could leave the area when he was shot
7 with both nonlethal and lethal rounds, he never pointed a gun at anyone, including
8 the involved officers, he never fired his weapon, nor did he attempt to do so, he
9 never verbally threatened anyone, he had not committed any crime, let alone a
10 serious crime and the involved officers had no information that he committed a
11 serious crime, DECEDENT never physically injured anyone prior to the shooting,
12 nor did he attempt to do so, DECEDENT was not in violation of any laws by
13 attending the BLM protest with his guns, some of the gunshots occurred as
14 DECEDENT was going to the ground and after he had already went down to the
15 ground, DECEDENT did not pose an immediate threat of death or serious bodily
16 injury to anyone, including to the involved officers, the involved officers did not
17 give a warning before firing both the nonlethal and lethal rounds, despite being
18 feasible to do so and FRYMAN, EMERTON, FERGUSON and LOCHER had less
19 than lethal options on them which they failed to exhaust before resorting to the use
20 of deadly force, despite being feasible to do so. Defendants' actions thus deprived
21 DECEDENT of his right to be free from unreasonable searches and seizures under
22 the Fourth Amendment and applied to state actors by the Fourteenth Amendment.

23 58. Defendants FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO
24 and DOES 2-5 retaliated against DECEDENT for exercising his First Amendment
25 rights to free speech, to peacefully protest and freedom of assembly, by using
26 excessive and unreasonable force against him, including deadly force, in violation of
27 his Fourth Amendment rights. Further, Defendants FRYMAN, EMERTON,
28 FERGUSON, LOCHER, SQUEO and DOES 2-5, retaliated against DECEDENT

1 for exercising his Second Amendment rights to bear arms (and in compliance with
2 Nevada's "open carry" laws), by using excessive and unreasonable force against
3 him, including deadly force, in violation of his Fourth Amendment rights.

4 59. The conduct of Defendants FRYMAN, EMERTON, FERGUSON,
5 LOCHER, SQUEO and DOES 2-5 was willful, wanton, malicious, and done with
6 reckless disregard for the rights and safety of DECEDENT and therefore warrants
7 the imposition of exemplary and punitive damages as to Defendants FRYMAN,
8 EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5.

9 60. Plaintiffs JEANNE LLERA and JORGE L. GOMEZ, bring this claim
10 as the appointed co-special administrators of the estate of DECEDENT JORGE A.
11 GOMEZ and seek survival damages for the violation of DECEDENT's rights.

12 61. Plaintiffs also seek attorney fees under this claim.

13 **THIRD CLAIM FOR RELIEF**

14 **Unreasonable Search and Seizure—Denial of Medical Care (42 U.S.C. § 1983)**
15 (Against Defendants FRYMAN, EMERTON, FERGUSON, LOCHER, and DOES
16 2-5)

17 62. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
18 through 61 of this Complaint with the same force and effect as if fully set forth
19 herein.

20 63. The denial of medical care by Defendants FRYMAN, EMERTON,
21 FERGUSON, LOCHER, and DOES 2-5 deprived DECEDENT of his right to be
22 secure in his person against unreasonable searches and seizures as guaranteed to
23 DECEDENT under the Fourth Amendment to the United States Constitution and
24 applied to state actors by the Fourteenth Amendment.

25 64. As a result, DECEDENT suffered extreme mental and physical pain
26 and suffering and eventually suffered a loss of life and earning capacity. Plaintiffs
27 are also claiming funeral and burial expenses and a loss of financial support.
28

1 65. Defendants FRYMAN, EMERTON, FERGUSON, LOCHER, and
2 DOES 2-5 knew that failure to provide timely medical treatment to DECEDENT
3 could result in further significant injury or the unnecessary and wanton infliction of
4 pain, but disregarded that serious medical need, causing DECEDENT great bodily
5 harm and death.

6 66. After shooting DECEDENT multiple times, FRYMAN, EMERTON,
7 FERGUSON, LOCHER, and DOES 2-5 did not timely provide nor summon
8 medical attention for DECEDENT, who was bleeding profusely and had obvious
9 serious injuries, and FRYMAN, EMERTON, FERGUSON, LOCHER, and DOES
10 2-5 also did not allow and prevented responding medical personnel on-scene to
11 timely render medical aid/assistance to DECEDENT.

12 67. The conduct of FRYMAN, EMERTON, FERGUSON, LOCHER, and
13 DOES 2-5 was willful, wanton, malicious, and done with reckless disregard for the
14 rights and safety of DECEDENT and therefore warrants the imposition of
15 exemplary and punitive damages as to Defendants FRYMAN, EMERTON,
16 FERGUSON, LOCHER, and DOES 2-5.

17 68. Plaintiffs JEANNE LLERA and JORGE L. GOMEZ, bring this claim
18 as the appointed co-special administrators of the estate of DECEDENT JORGE A.
19 GOMEZ and seek survival damages for the violation of DECEDENT's rights.

20 69. Plaintiffs also seek attorney fees under this claim.
21

22 **FOURTH CLAIM FOR RELIEF**

23 **Substantive Due Process (42 U.S.C. § 1983)**

24 (Against Defendants FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and
25 DOES 2-5)

26 70. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
27 through 69 of this Complaint with the same force and effect as if fully set forth
28 herein.

1 71. JEANNE LLERA has a cognizable interest under the Due Process
2 Clause of the Fourteenth Amendment of the United States Constitution to be free
3 from state actions that deprive her of life, liberty, or property in such a manner as to
4 shock the conscience, including but not limited to, unwarranted state interference in
5 Plaintiff's familial relationship with her son, DECEDENT.

6 72. JORGE L. GOMEZ has a cognizable interest under the Due Process
7 Clause of the Fourteenth Amendment of the United States Constitution to be free
8 from state actions that deprive him of life, liberty, or property in such a manner as to
9 shock the conscience, including but not limited to, unwarranted state interference in
10 Plaintiff's familial relationship with his son, DECEDENT.

11 73. DECEDENT had a cognizable interest under the Due Process Clause of
12 the Fourteenth Amendment of the United States Constitution to be free from state
13 actions that deprive him of his right to life, liberty, or property in such a manner as
14 to shock the conscience.

15 74. As a result of the excessive force by FRYMAN, EMERTON,
16 FERGUSON, LOCHER, SQUEO and DOES 2-5, and failure of said Defendants to
17 intervene, DECEDENT died. Plaintiffs JEANNE LLERA and JORGE L. GOMEZ
18 were thereby deprived of their constitutional right of familial relationship with
19 DECEDENT.

20 75. by FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and
21 DOES 2-5, acting under color of state law, thus violated the Fourteenth Amendment
22 rights JEANNE LLERA and JORGE L. GOMEZ to be free from unwarranted
23 interference with their familial relationship with DECEDENT.

24 76. The aforementioned actions of by FRYMAN, EMERTON,
25 FERGUSON, LOCHER, SQUEO and DOES 2-5, along with other undiscovered
26 conduct, shock the conscience, in that they acted with deliberate indifference to the
27 constitutional rights of DECEDENT and Plaintiffs JEANNE LLERA and JORGE L.
28

1 GOMEZ, and with purpose to harm unrelated to any legitimate law enforcement
2 objective.

3 77. Defendants by FRYMAN, EMERTON, FERGUSON, LOCHER,
4 SQUEO and DOES 2-5, acting under color of state law, thus violated the Fourteenth
5 Amendment rights of DECEDENT and Plaintiffs.

6 78. As a direct and proximate cause of the acts of by FRYMAN,
7 EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5, DECEDENT
8 experienced severe pain and suffering and lost his life and earning capacity.
9 Plaintiffs suffered extreme and severe mental anguish and pain and have been
10 injured in mind and body. Plaintiffs has also been deprived of the life-long love,
11 companionship, comfort, support, society, care and sustenance of DECEDENT, and
12 will continue to be so deprived for the remainder of their natural lives. Plaintiffs are
13 also claiming funeral and burial expenses.

14 79. As a result of the conduct of by FRYMAN, EMERTON, FERGUSON,
15 LOCHER, SQUEO and DOES 2-5, they are liable for DECEDENT's injuries, either
16 because they were integral participants in the denial of due process, or because they
17 failed to intervene to prevent these violations.

18 80. The conduct of by FRYMAN, EMERTON, FERGUSON, LOCHER,
19 SQUEO and DOES 2-5 was willful, wanton, malicious, and done with reckless
20 disregard for the rights and safety of DECEDENT and Plaintiffs and therefore
21 warrants the imposition of exemplary and punitive damages as to Defendants by
22 FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5.

23 81. JEANNE LLERA and JORGE L. GOMEZ bring this claim
24 individually and seek wrongful death damages for the violation of their rights.

25 82. Plaintiffs also seek attorney fees under this claim.
26
27
28

FIFTH CLAIM FOR RELIEF

Municipal Liability for Unconstitutional Custom or Policy (42 U.S.C. § 1983)

(Against Defendants DOES 6-10 and LVMPD)

83. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 82 of this Complaint with the same force and effect as if fully set forth herein.

84. On and for some time prior to June 1, 2020 (and continuing to the present date) Defendants DOES 6-10, who were managerial, supervisory, and policymaking employees of LVMPD, deprived Plaintiffs and DECEDENT of the rights and liberties secured to them by the Fourth and Fourteenth Amendments to the United States Constitution, in that said defendants and their supervising and managerial employees, agents, and representatives, acting with gross negligence and with reckless and deliberate indifference to the rights and liberties of the public in general, and of Plaintiffs and DECEDENT, and of persons in their class, situation and comparable position in particular, knowingly maintained, enforced and applied an official recognized custom, policy, and practice of:

- (a) Employing and retaining as police officers and other personnel, including by FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5, who Defendants DOES 6-10, at all times material herein knew or reasonably should have known had dangerous propensities for abusing their authority and for mistreating citizens by failing to follow written LVMPD's policies, including the use of excessive and deadly force, such as fatally shooting individuals;
- (b) Of inadequately supervising, training, controlling, assigning, and disciplining LVMPD Police Officers, and other personnel, including by FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5, who Defendant LVMPD knew or in the

1 exercise of reasonable care should have known had the
2 aforementioned propensities and character traits, including the
3 propensity for violence and the use of excessive force, including
4 deadly force, such as fatally shooting individuals;

5 (c) By maintaining grossly inadequate procedures for reporting,
6 supervising, investigating, reviewing, disciplining and
7 controlling the intentional misconduct by Defendants by
8 FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and
9 DOES 2-5, who are Police Officers of LVMPD;

10 (d) By failing to discipline the LVMPD Police Officers' conduct,
11 including but not limited to, the use of excessive and
12 unreasonable force, including deadly force;

13 (e) By ratifying the intentional misconduct of Defendants by
14 FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and
15 DOES 2-5, who are Police Officers of LVMPD;

16 (f) By having and maintaining an unconstitutional policy, custom,
17 and practice of detaining and arresting individuals without
18 probable cause or reasonable suspicion, and using excessive
19 force, including deadly force, such as fatally shooting
20 individuals, which also is demonstrated by inadequate training
21 regarding these subjects. The policies, customs, and practices of
22 DOES 6-10, were done with a deliberate indifference to
23 individuals' safety and rights;

24 (g) By failing to properly investigate claims of excessive and
25 unreasonable force, including deadly force, by LVMPD Police
26 Officers;

- 1 (h) By failing to institute appropriate policies regarding
2 constitutional procedures and practices for use of force,
3 including the use of less than lethal ammunitions, and firearms;
4 (i) By using excessive force against persons, condoning the use of
5 excessive force, and conspiring to cover-up civil rights
6 violations; and
7 (j) By totally inadequate training of its officers and other LVMPD
8 employees, including defendants by FRYMAN, EMERTON,
9 FERGUSON, LOCHER, SQUEO and DOES 2-5, on the
10 aforementioned issues, including use of firearms, despite clear
11 need.

12 85. By reason of the aforementioned policies and practices of Defendants
13 DOES 6-10, DECEDENT was severely injured and subjected to pain and suffering
14 and lost his life.

15 86. Defendants DOES 6-10, together with various other officials, whether
16 named or unnamed, had either actual or constructive knowledge of the deficient
17 policies, practices and customs alleged in the paragraphs above. Despite having
18 knowledge as stated above these defendants condoned, tolerated and through actions
19 and inactions thereby ratified such policies. Said defendants also acted with
20 deliberate indifference to the foreseeable effects and consequences of these policies
21 with respect to the constitutional rights of DECEDENT, Plaintiffs, and other
22 individuals similarly situated.

23 87. By perpetrating, sanctioning, tolerating and ratifying the outrageous
24 conduct and other wrongful acts, Defendants DOES 6-10, acted with an intentional,
25 reckless, and callous disregard for the life of DECEDENT, and DECEDENT's and
26 Plaintiff's constitutional rights. Defendants DOES 6-10, each of their actions were
27 willful, wanton, oppressive, malicious, fraudulent, and extremely offensive and
28 unconscionable to any person of normal sensibilities.

1 88. Furthermore, the policies, practices, and customs implemented and
2 maintained and still tolerated by Defendants DOES 6-10, were affirmatively linked
3 to and were a significantly influential force behind the injuries of DECEDENT and
4 Plaintiffs.

5 89. By reason of the aforementioned acts and omissions of Defendants
6 DOES 6-10, Plaintiffs were caused to incur funeral and related burial expenses.

7 90. By reason of the aforementioned acts and omissions of Defendants
8 DOES 6-10, Plaintiffs have suffered loss of love, companionship, affection,
9 comfort, care, and society.

10 91. Accordingly, Defendants DOES 6-10, each are liable to Plaintiffs for
11 compensatory damages under 42 U.S.C. § 1983.

12 92. Plaintiffs seek both wrongful death and survival damages under this
13 claim.

14 93. Plaintiffs also seek attorney fees under this claim.

15 **SIXTH CLAIM FOR RELIEF**

16 **Municipal Liability – Failure to Train (42 U.S.C. § 1983)**

17 (Against Defendants DOES 6-10 and LVMPD)

18 94. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
19 through 93 of this Complaint with the same force and effect as if fully set forth
20 herein.

21 95. While acting under the color of state law and within the course and
22 scope of their employment as police officers for the LVMPD police department,
23 FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5 shooting
24 (both nonlethal and lethal rounds) of DECEDENT, who had been peacefully
25 protesting then complied with law enforcement's disbursement order and began to
26 walk back towards his parked vehicle so he could leave the area, who never pointed
27 a gun at anyone, never shot or attempted to shoot anyone, who never physically
28 injured anyone or attempted to do so and who never verbally threatened anyone,

1 deprived DECEDENT of his rights and liberties secured to him by the Fourth and
2 Fourteenth Amendments, including their right to be free from unreasonable search
3 and seizure.

4 96. The training policies of the Defendant LVMPD police department were
5 not adequate to train its police officers, including but not limited to, FRYMAN,
6 EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5, with regards to
7 using force, including deadly force. As a result, LVMPD police officers, including
8 FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5, are not
9 able to handle the usual and recurring situations with which they must deal with,
10 including individuals peacefully protesting, individuals with guns on them in
11 compliance with Nevada's "open carry" laws and individuals who run away from
12 the police. These inadequate training policies existed prior to the date of this
13 incident and continue to this day.

14 97. The Defendant LVMPD was deliberately indifferent to the known or
15 obvious consequences of its failure to train its police officers, including FRYMAN,
16 EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5, adequately with
17 regards to the use of force, including deadly force. This inadequate training
18 includes failing to teach officers to deal with individuals who are peacefully
19 protesting, who are lawfully carrying weapons in compliance with Nevada state law,
20 who are running away from the police and who do not pose an immediate threat of
21 death or serious bodily injury to the officers or others.

22 98. LVMPD has numerous officer involved shootings annually. Many of
23 these shootings involve individuals who are running away from the police and who
24 do not pose an immediate threat of death or serious bodily injury. LVMPD was
25 aware that there was a reoccurring problem with their officers shooting individuals
26 who are running away from the police and who do not pose an immediate threat of
27 death or serious bodily injury. Further, LVMPD was aware that their police officers
28 had a problem of using excessive and unreasonable force, including deadly force

1 and the use of less than lethal rounds, against individuals. In other words, LVMPD
2 was aware that there was a problem involving numerous officer involved shootings
3 (both lethal and non-lethal rounds) of individuals which could have been reasonably
4 avoided had the officers employed well known and accepted police tactics and
5 techniques to avoid having to unnecessarily use excessive force, including deadly
6 force, against these individuals who keep getting shot by LVMPD officers.

7 99. LVMPD was aware that failure to implement proper training with
8 regards to their officers use of force, including deadly force, would result in
9 LVMPD continuing to have numerous unreasonable officer involved shootings of
10 individuals.

11 100. The training that LVMPD police officers, including Officers
12 FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5, should
13 have received with regards to the use of force, including deadly force, against
14 individuals includes training that officers not use less than lethal rounds on
15 individuals peacefully protesting, to not use deadly force against individuals who have
16 guns on their person and are in compliance with Nevada's "open carry" laws, using
17 force, including deadly force, against individuals who are running away from the
18 police, to first exhaust all less than lethal alternatives before resorting to the use of
19 deadly force when reasonable, to give a verbal warning that deadly force would be
20 used prior to shooting and to not use deadly force against an individual unless he
21 poses an immediate or imminent threat of death or serious bodily injury. On
22 information and belief, the training provided to LVMPD police officers, including
23 Officers FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5,
24 with regards to the use of force, including deadly force, against individuals did not
25 include this type of training.

26 101. The training that LVMPD police officers, including Officers
27 FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5, received
28 with regards to using force, including deadly force, was inadequate because it has

1 continuously resulted in numerous unreasonable uses of force by LVMPD police
2 officers (going back at least five (5) years). Further, the training that LVMPD
3 police officers, including Officers FRYMAN, EMERTON, FERGUSON,
4 LOCHER, SQUEO and DOES 2-5, received with regards to using force, including
5 deadly force, was inadequate because it failed to implement well known and
6 accepted police tactics and techniques for dealing with individuals, including
7 individuals who guns on their person in compliance with state law, who are
8 peacefully protesting, and who are running away from the police. Theses well
9 known and accepted police practices and techniques are routinely used to train law
10 enforcement from other agencies throughout the County.

11 102. The failure of the Defendant LVMPD police department to provide
12 adequate training with regards to the use of force, including deadly force, caused the
13 deprivation of the Plaintiffs' rights by Officers FRYMAN, EMERTON,
14 FERGUSON, LOCHER, SQUEO and DOES 2-5. In other words, the Defendant's
15 failure to train is so closely related to the deprivation of the DECEDENT/Plaintiffs'
16 rights as to be the moving force that caused the ultimate injury.

17 103. By failing to provide adequate training LVMPD's police officers,
18 including Officers FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and
19 DOES 2-5, acted with an intentional, reckless, and callous disregard for the life of
20 DECEDENT, and DECEDENT's and Plaintiffs' constitutional rights. Defendants
21 DOES 6-10, each of their actions were willful, wanton, oppressive, malicious,
22 fraudulent, and extremely offensive and unconscionable to any person of normal
23 sensibilities.

24 104. By reason of the aforementioned acts and omissions of Defendants
25 DOES 6-10, Plaintiffs were caused to incur medical expenses, incur funeral and
26 related burial expenses, and loss of financial support.

1 105. By reason of the aforementioned acts and omissions of Defendants
2 DOES 6-10, Plaintiffs have suffered loss of love, companionship, affection,
3 comfort, care, society, and future support.

4 106. Accordingly, Defendants DOES 6-10, each are liable to Plaintiffs for
5 compensatory damages under 42 U.S.C. § 1983.

6 107. Plaintiffs seek wrongful death and survival damages under this claim.

7 108. Plaintiffs also seek statutory attorney fees under this claim.

8 **SEVENTH CLAIM FOR RELIEF**

9 **Municipal Liability— Ratification (42 U.S.C. § 1983)**

10 (Against Defendants DOES 6-10 and LVMPD)

11 109. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
12 through 108 of this Complaint with the same force and effect as if fully set forth
13 herein.

14 110. Officers FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO
15 and DOES 2-5 acted under color of law when they shot DECEDENT with both
16 nonlethal and lethal rounds.

17 111. The acts of Officers FRYMAN, EMERTON, FERGUSON, LOCHER,
18 SQUEO and DOES 2-5 deprived DECEDENT and Plaintiffs of their particular
19 rights under the United States Constitution.

20 112. DOES 6-10 acted under color of state law.

21 113. DOES 6-10 had final policymaking authority of Defendant LVMPD
22 concerning the acts of Officers FRYMAN, EMERTON, FERGUSON, LOCHER,
23 SQUEO and DOES 2-5.

24 114. DOES 6-10 ratified Officers FRYMAN, EMERTON, FERGUSON,
25 LOCHER, SQUEO and DOES 2-5 acts, including their shooting of DECEDENT.
26 That is DOES 6-10 knew of and specifically made a deliberate choice to approve
27 FRYMAN, EMERTON, FERGUSON, LOCHER and SQUEO's acts and the basis
28 for it.

1 115. On information and belief, DOES 6-10 knew that DECEDENT had
2 been peacefully protesting then complied with a law enforcement order to disperse
3 and was walking back to his parked vehicle when he was shot with less than lethal
4 rounds then ultimately shot with lethal rounds, that DECEDENT was in compliance
5 with state law with regards to having his guns and vest on him, that he never pointed
6 a gun at anyone, that he never shot or tried to shoot at anyone, he never charged at
7 any of the officers, ran away from the officers, never verbally threatened anyone
8 and never physically injured anyone nor did he ever attempt to do so.

9 116. On information and belief, the official policies with respect to the
10 incident are that officers are not to use deadly force against an individual unless the
11 individual poses an immediate risk of death or serious bodily injury to the officers or
12 others, or if the individual has inflicted death or serious bodily injury against
13 someone or threatened to do so, the officers may use deadly force to prevent the
14 individual's escape. The officers' actions deviated from these official policies
15 because DECEDENT did not pose an immediate threat of death or serious bodily
16 injury to the involved officers or anyone, including but not limited to, because
17 DECEDENT had been peacefully protesting then complied with a law enforcement
18 order to disperse, then began to walk back to his parked vehicle so he could leave
19 the area when he was shot with less than lethal rounds and ultimately with lethal
20 rounds, DECEDENT was in compliance with state law with regards to having his
21 guns and vest on him, he never pointed a gun at anyone, he never shot or tried to
22 shoot at anyone, he never charged at any of the officers, he ran away from the
23 officers, he never verbally threatened anyone and never physically injured anyone
24 nor did he ever attempt to do so. Further, the involved officers also deviated from
25 the official policies because pursuant to the official policies of the LVMPD Police
26 Department, the officers could not use deadly force to prevent DECEDENT from
27 escaping because he did not inflict death or serious bodily injury on anyone nor did
28 he threaten to do so.

117. On information and belief, the LVMPD approved of the Officers FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5's actions after a hearing presented by the officers' legal counsel to DOES 6-10, after which DOES 6-10 found the officers' actions to be within the official policies of LVMPD. On information and belief, the basis for such approval was based on the officers' self-serving statements that they feared they were about to be shot and killed by DECEDENT, despite the plethora of evidence to the contrary, including evidence that the DECEDENT had been peacefully protesting then complied with a law enforcement order to disperse, then began to walk back to his parked vehicle so he could leave the area when he was shot with less than lethal rounds and ultimately with lethal rounds, DECEDENT was in compliance with state law with regards to having his guns and vest on him, he never pointed a gun at anyone, he never shot or tried to shoot at anyone, he never charged at any of the officers, he ran away from the officers, he never verbally threatened anyone and never physically injured anyone nor did he ever attempt to do so.

EIGHTH CLAIM FOR RELIEF

Battery (State Law Claim for Battery)

(Wrongful Death/Survival)

(Against Defendants LVMPD, FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5)

118. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 117 of this Complaint with the same force and effect as if fully set forth herein.

119. Defendants FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5, while working as police officers for LVMPD, and acting within the course and scope of their duties, intentionally shot DECEDENT multiple times with both nonlethal and lethal rounds. As a result of the actions of Officers FRYMAN,

1 EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5, DECEDENT
2 suffered severe mental and physical pain and suffering, loss of enjoyment of life and
3 ultimately died from his injuries and lost earning capacity. Officers FRYMAN,
4 EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5 had no legal
5 justification for using force, including deadly force, against DECEDENT and said
6 Defendants' use of force while carrying out their officer duties was an unreasonable
7 use of force, especially since DECEDENT had just been peacefully protesting then
8 complied with a law enforcement disbursement order and was walking back to his
9 parked vehicle so he could leave the area, DECEDENT was in compliance with
10 state law with regards to having his guns and vest on him, he never pointed a gun at
11 anyone, shot or tried to shoot at anyone, he never charged at any of the officers, he
12 ran away from the officers, he never verbally threatened anyone, he never physically
13 injured anyone, nor did he ever attempt to do so and the officers did not give a
14 verbal warning that deadly force would be used prior to the shooting. As a direct
15 and proximate result of Defendants' conduct as alleged above, Plaintiffs suffered
16 extreme and severe mental anguish and pain and have been injured in mind and
17 body. Plaintiffs also have been deprived of the life-long love, companionship,
18 comfort, support, society, care and sustenance of DECEDENT, and will continue to
19 be so deprived for the remainder of their natural lives. Plaintiffs also are claiming
20 funeral and burial expenses and a loss of financial support.

21 120. LVMPD is vicariously liable for the wrongful acts of Defendants
22 FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5 because
23 they were acting under color of law and within the course and scope of their
24 employment as police officers for LVMPD.

25 121. The conduct of FRYMAN, EMERTON, FERGUSON, LOCHER,
26 SQUEO and DOES 2-5 was malicious, wanton, oppressive, and accomplished with
27 a conscious disregard for the rights of Plaintiffs and DECEDENT, entitling
28 Plaintiffs and DECEDENT, to an award of exemplary and punitive damages.

1 122. Plaintiffs are seeking both survival and wrongful death damages under
2 this claim.

3
4 **NINTH CLAIM FOR RELIEF**

5 **Negligence (State Law Claim for Negligence)**

6 (Wrongful Death/Survival)

7 (Against All Defendants)

8 123. Plaintiffs repeat and reallege each and every allegation in paragraphs 1
9 through 122 of this Complaint with the same force and effect as if fully set forth
10 herein.

11 124. The actions and inactions of the Defendants were negligent and
12 reckless, including but not limited to:

- 13 a. the failure to properly and adequately train employees, including
14 Officers FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and
15 DOES 2-5, with regards to the use of force, including deadly
16 force;
17 b. the failure to properly and adequately assess the need to detain,
18 arrest, and use force, including deadly force against
19 DECEDENT;
20 c. the negligent tactics and handling of the situation with
21 DECEDENT, including pre-shooting negligence;
22 d. the negligent detention, arrest, and use of force, including deadly
23 force, against DECEDENT;
24 e. the failure to provide prompt medical care to DECEDENT;
25 f. the failure to properly train and supervise employees, both
26 professional and non-professional, including Officers FRYMAN,
27 EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5;
28

- 1 g. the failure to ensure that adequate numbers of employees with
- 2 appropriate education and training were available to meet the
- 3 needs of and protect the rights of DECEDENT;
- 4 h. the negligent handling of evidence and witnesses;
- 5 i. the negligent handling of individuals peacefully protesting,
- 6 including after a disbursement order is given by law
- 7 enforcement;
- 8 j. the negligent handling of individuals with guns on them in
- 9 compliance with state law; and
- 10 k. the negligent handling of individuals who are running away from
- 11 the police.

12 125. As a direct and proximate result of defendants' conduct as alleged
 13 above, and other undiscovered negligent conduct, DECEDENT was caused to suffer
 14 severe pain and suffering and ultimately died and lost earning capacity. Also as a
 15 direct and proximate result of defendants' conduct as alleged above, Plaintiffs
 16 suffered extreme and severe mental anguish and pain and have been injured in mind
 17 and body. Plaintiffs also have been deprived of the life-long love, companionship,
 18 comfort, support, society, care and sustenance of DECEDENT, and will continue to
 19 be so deprived for the remainder of their natural lives. Plaintiffs also are claiming
 20 funeral and burial expenses.

21 126. LVMPD is vicariously liable for the wrongful acts of Officers
 22 FRYMAN, EMERTON, FERGUSON, LOCHER, SQUEO and DOES 2-5 because
 23 they acted under color of law and within the course and scope of their employment
 24 as police officers for LVMPD.

25 127. The negligent acts of Officers FRYMAN, EMERTON, FERGUSON,
 26 LOCHER, SQUEO and DOES 2-5 resulted in bodily harm, including death, to
 27 DECEDENT.

1 Plaintiffs are seeking wrongful death damages and survival damages under this
2 claim.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs JEANNE LLERA and JORGE L. GOMEZ, as the appointed co-special administrators of the estate of JORGE A. GOMEZ; JEANNE LLERA; and JORGE L. GOMEZ request entry of judgment in their favor and against Defendants LAS VEGAS METROPOLITAN POLICE DEPARTMENT; RYAN FRYMAN; DAN EMERTON; VERNON FERGUSON; ANDREW LOCHER; JOHN SQUEO and DOES 2-10, inclusive, as follows:

A. For compensatory damages, including both survival damages and wrongful death damages under federal and state law, in the amount to be proven at trial;

B. For funeral and burial expenses;

C. For medical billing and expenses;

D. For punitive damages against the individual defendants in an amount to be proven at trial;

E. For interest;

F. For reasonable costs of this suit and statutory attorneys' fees; and

G. For such further other relief as the Court may deem just, proper, and appropriate.

DATED: January 29, 2021

LAW OFFICES OF DALE K. GALIPO

Bv s/ Eric Valenzuela

Dale K. Galipo
Eric Valenzuela
Attorneys for Plaintiffs

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs hereby demand a trial by jury.

3
4
5 DATED: January 29, 2021

LAW OFFICES OF DALE K. GALIPO

6
7 By s/ Eric Valenzuela

Dale K. Galipo

Eric Valenzuela

Attorneys for Plaintiffs